

\_\_\_\_\_ The defendant has a prior record of failure to appear at  
\_\_\_\_\_ court proceedings.

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(b) At the time of the current arrest, the defendant was on:

\_\_\_\_\_ Probation

\_\_\_\_\_ Parole

\_\_\_\_\_ Release pending trial, sentence, appeal or completion of sentence.

(c) Other Factors:

  X   The defendant is an illegal alien and is subject to deportation.

\_\_\_\_\_ The defendant is a legal alien and will be subject to deportation if convicted.

  X   The Bureau of Immigration and Custom Enforcement (BICE) has placed a detainer with the U.S. Marshal.

\_\_\_\_\_ Other: \_\_\_\_\_

  X   (4) The nature and seriousness of the danger posed by the defendant's release are as follows: The nature of the charges in the Indictment. The testimony of DEA Special Agent Orduna concerning the defendant's drug trafficking activities in Madison and Norfolk, Nebraska.

  X   (5) **Rebuttable Presumptions**

In determining that the defendant should be detained, the Court also relied on the following rebuttable presumption(s) contained in 18 U.S.C. § 3142(e) which the Court finds the defendant has not rebutted:

  X   (a) That no condition or combination of conditions will reasonably assure the appearance of the defendant as required and the safety of any other person and the community because the Court finds that the crime involves:

\_\_\_\_\_ (1) A crime of violence; or

\_\_\_\_\_ (2) An offense for which the maximum penalty is life imprisonment or death; or

  X   (3) A controlled substance violation which has a maximum penalty of 10 years or more; or

\_\_\_\_\_ (4) A felony after the defendant had been convicted of two or more prior offenses described in (1) through (3) above, and the defendant has a prior conviction for one of the crimes mentioned in (1) through (3) above which is less than five years old and which was committed while the defendant was on pretrial release.

  X   (b) That no condition or combination of conditions will reasonably assure the appearance of the defendant as required and the safety of the community because the Court finds that there is probable cause to believe:

  X   (1) That the defendant has committed a controlled substance violation which has a maximum penalty of 10 years or more.

\_\_\_\_\_ (2) That the defendant has committed an offense under 18 U.S.C. § 924(c) (uses or carries a firearm during and in relation to any crime of violence, including a crime of violence, which provides for an enhanced punishment if committed by the use of a deadly or dangerous weapon or device).

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**D. Additional Directives**

Pursuant to 18 U.S.C. § 3142(i)(2)-(4), the Court directs that:

1. The defendant be committed to the custody of the Attorney General for confinement in a corrections facility separate, to the extent practicable, from persons awaiting or serving sentences or being held in custody pending appeal;
2. The defendant be afforded reasonable opportunity for private consultation with counsel; and
3. That, on order of a court of the United States, or on request of an attorney for the government, the person in charge of the corrections facility in which the defendant is confined deliver the defendant to a United States Marshal for the purpose of an appearance in connection with a court proceeding.

**IT IS FURTHER ORDERED:**

The defendant's motion for release (Filing No. 13) is denied.

DATED: September 12, 2011.

BY THE COURT:

s/Thomas D. Thalken

United States Magistrate Judge